

No. 20-15638

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

In re ALPHABET, INC. SECURITIES LITIGATION

STATE OF RHODE ISLAND, Office of the Rhode Island Treasurer on behalf of
the Employees' Retirement System of Rhode Island; Lead Plaintiff, Individually
and On Behalf of All Others Similarly Situated,

Plaintiff-Appellant,

v.

ALPHABET, INC., LAWRENCE E. PAGE, SUNDAR PICHAI, RUTH M.
PORAT, GOOGLE LLC, KEITH P. ENRIGHT and JOHN KENT WALKER, JR.,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California

No. 4:18-cv-06245-JSW

Honorable Jeffrey S. White

OPPOSITION TO MOTION TO STAY

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Ninth Circuit No. 20-15638

CORPORATE DISCLOSURE STATEMENT

Appellant and lead plaintiff State of Rhode Island, Office of the Rhode Island Treasurer on behalf of the Employees' Retirement System of Rhode Island is not a corporate party, does not issue stock, and is not controlled by any publicly held corporation.

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I. INTRODUCTION

After failing to move to dismiss two of Plaintiff's three principal liability claims, twice failing to convince a single Judge on this panel, and failing to secure a single request for a vote for *en banc* consideration, Defendants proclaim that, "[p]lainly [it] is not the case" (Defs.' Mot.¹ at 1) that their planned petition for certiorari "would be frivolous or filed merely for delay." 9th Cir. R. 41-1. Defendants' hyperbole betrays exactly what they "[p]lainly" deny. A petition for certiorari here would be both frivolous and just another delay tactic.

Defendants' self-described petition does not reach Plaintiff's claims under Rules 10b-5(a) and (c). Regarding the lone claim it addresses, Defendants rely on rank revisionism, of both the Consolidated Amended Complaint (the "Complaint") *and* this Court's opinion, with the same telling hyperbole: "Under the panel's new rule, every public company whose 'business model is based on trust' (Op. 27) will be subjected to an affirmative duty to disclose any and all problems it has experienced – even if the problems no longer exist at the time of disclosure, and even if the relevant public statements are neither false nor misleading." Defs.' Mot. at 5. Defendants' description is not fair, as this Court faithfully followed binding precedent and created no new rules. Plaintiff respectfully requests that this Court deny Defendants' motion.

¹ "Defs.' Mot." refers to Defendants-Appellees' Motion to Stay the Mandate Pending Filing of a Petition for a Writ of Certiorari (ECF No. 47).

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